IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 18122 of 2005

Between:

H.P.C.Contract Labour Co-operative Soceity Ltd., Visakhapatnam, rep by its President
M.dhanunjaya Rao S/o.Late Guri Naidu,
R/o.Visakhapatnam.

..... PETITIONER

AND

1 The Joint Registrar/District Co-Operative Officer

Visakhapatnam.
2 The Dy.Registrar of Co-operative Societies, Visakhapatnam,

Visakhapaatnam Dt.
3 Sri P.Arjuna Rao S/o.not known, Joint Registrar and District

Co-operative Officer, Visakhapatnam.

.....RESPONDENTS

ORAL ORDER:

The writ petition is misconceived. It is directed against a show cause notice, dated 05.08.2005, issued by the second respondent setting out eight major heads of allegations of managerial misconduct.

All allegations pertain to the conduct of the Managing committee in the matter of maintenance of accounts and utilization of the funds of the HPCL Contract Labour Co-operative Society, Malkapuram, Visakapatnam and call upon the management to explain as to why the managing committee should not be superceded and a Special Officer appointed to manage the affairs of the society under Section 34(1) of the A.P. Cooperative Societies Act and Rules, 1964 (hereinafter referred to as “the Act”).

It is neither asserted or demonstrated before this Court that the second respondent is incompetent to issue the show cause notice or to have exercised or initiated exercise of power under Section 34(1) of the Act. No allegations of *mala fides* are also made against the second respondent. What is alleged is that the first respondent is pre-disposed towards superseding the managing committee of the society. In any event, it is the second respondent, who is a Registrar under the

delegated powers and who is competent to exercise powers under Section 34 of the Act. What has been issued by the second respondent and the impugned herein is a mere show cause notice.

Another substantive ground of attack by the petitioner is that the first respondent had by proceedings dated 02.08.2005 directed the Divisional Cooperative Officer, Visakhapatnam to take action on a special report for recovery of misappropriated amount by invoking Section 60 of the Act at an early date and furnish the action taken report with the first respondent. This direction was issued to the Divisional Cooperative Officer by the first respondent on the ground that a copy of a special report submitted by the Assistant Registrar/Auditor, Kasimkota disclosed misappropriation of funds which were noticed during the official audit of the HPCL Contract Labour Co-operative Society for the year 2004-2005 and warranted, in the considered view of the first respondent that action be taken under Section 60 of the Act.

The petitioner's grievance is that the second respondent instead of taking action under Section 60 of the Act as directed by the first respondent has decided to initiate action under Section 34 of the Act.

The provisions of A.P. Co-operative Societies Act, 1964 govern and mandate the powers and authority of the second respondent. These provisions do not depend for their effectuation on any directions issued by the first respondent. The first respondent is one of the State Actors appointed to effectuate the provisions of the Act. The second respondent is also, on the basis of delegation of the powers of Registrar to him, competent to exercise the conferred statutory powers. Such powers exercised by the second respondent by virtue of being a Registrar are not eclipsed on account of the absence of any directions by the first respondent. The contentions urged by the first respondent on this aspect of the matter does not merit acceptance by this Court.

The impugned show cause notice is competent and suffers from no infirmity, warranting interference under Article 226 of the Constitution of India. The petitioner, which is a managing committee of HPCL Contract Labour Cooperative Society, Malkapuram is statutorily obligated to respond to the initiation of proceedings under Section 34 of the Act. No legal grounds immunizing the petitioner from the obligation to respond has been brought to the notice of this court warranting interference with

what is merely a show cause notice. There are no grounds for interference with the impugned notice.

The writ petition is dismissed at the stage of admission after hearing the learned Government Pleader for Co-operation. No costs.

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17-08-2005

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